



MEMORANDUM

DATE: October 25, 2018
TO: Chair Edmondson and Members of the Planning Commission
FROM: Andy Gustavson, Senior Planner
CC: Jessica Jones, Supervising Planner
Clare Hartman, Deputy Director – Planning
David Guhin, Director – Planning and Economic Development
Ashle Crocker, Assistant City Attorney – City Attorney’s Office

RE: Late Correspondence; Recommended Ordinance Changes; and 2018 State Density Bonus Legislation Information for Planning Commission Agenda Item 10.3, Density Bonus Ordinance Update

The purpose of this memorandum is to share late public correspondence, alert the Commission about ordinance changes recommended by staff, and provide links to the 2018 State Density Bonus Law amendments discussed in the staff report.

Late Correspondence: Three emails were submitted on October 23 and 24. Two expressed support for the revised ordinance. The third email from Mr. Hooper called attention to a correction that is needed to conform the proposed ordinance to State Law. This matter is discussed below.

Recommended Ordinance Changes: Mr. Hopper called attention to the last sentence in Section 21-30.100.G of the proposed ordinance, which requires the applicant to show affordable housing construction cost saving associated with a requested development standard waiver and reduction. This provision is inconsistent with State Law. Section 65915 (e) of the State Law says the City must grant the waiver or reduction unless doing so would create an adverse impact on public health and safety, the environment, or historic resources.

The first recommended ordinance is to modify Section 21-30.100.G by replacing the last sentence of Section 21-30.100.G with a new sentence that requires the applicant to provide reasonable documentation the City can use to determine the requested waiver and reduction is needed to build the project. This provision is consistent with State Law and is recommended as printed below.

G. Waiver or Reduction of Development Standard. The City shall not apply any development standard that would have the effect of precluding the construction of a proposed Housing Development meeting the requirements of Section [20.31.060](#) at the densities or with the Incentives permitted by this Chapter. An applicant may submit with its application to the City a proposal for the waiver or reduction of development standards. A waiver or reduction of development standards, the application of which would physically preclude the development, shall not reduce nor increase the number of Incentives or Concessions being requested. Nothing in this Subsection, however, shall be interpreted to require the City to waive or reduce development standards if the waiver or reduction would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5 of the California [Government Code](#), upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which the City determines there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. ~~Furthermore, the applicant shall be required to prove that the waiver or modification results in identifiable and actual cost reductions to provide for affordable housing costs.~~ Furthermore, the applicant shall be required to provide reasonable documentation demonstrating the project cannot be built if the development standard is not waived or reduced.

The second ordinance change is to (1) modify the first recital in the ordinance resolution to include the 2018 State Law density bonus changes in the list of State Law changes that occurred since the adoption of the City's current Density Bonus Ordinance, and (2) add a new recital to memorialize the Commission considered at its October 25th hearing a revised ordinance prepared by staff in response to comments and questions raised by the public and the Commission at its July 26, 2018 hearing.

The third ordinance change is to revised the first recital in the CEQA resolution to include the same reference 2018 State Law Density Bonus Law changes.

The revised ordinances will be provided to the Commission at the start of the public hearing.

2018 State Density Bonus Law Information: The links listed below provide access to the full text of the 2018 amendments to the State Density Bonus Law, Government Code Section 65915.

- [SB 1227, Skinner, Student Housing](#)
- [AB 2372, Gloria, Floor Area Ratio Bonus](#)
- [AB 2753, Friedman, Density Bonus Application](#)
- [AB 2797, Bloom, Density Bonus in Coastal Zone](#)

From: [Michael Hooper](#)
To: [Gustavson, Andy](#)
Cc: [Jones, Jessica](#); [Guhin, David](#); [Hartman, Clare](#); [Robert Upton](#)
Subject: Re: City of Santa Rosa Density Bonus Ordinance Update Status
Date: Tuesday, October 23, 2018 4:37:14 PM
Attachments: [page31image30688.png](#)
[page31image30888.png](#)
[page31image31088.png](#)
[page31image31288.png](#)

Andy. Thank you for including me on your list of Interested Parties. As I mentioned in my prior email, Campus Properties has been using State Density Bonus law for several years in multiple communities. Our experience has been that several communities that have adopted their own version of a Density Bonus law have run afoul of State law by commingling (lumping together) standards for the grant of a Concession or Incentive with those for Modifications and Waiver. That is clearly not appropriate. Concessions and Incentives are all about cost reduction, while Modifications and Waivers are about standards that would preclude the construction of a project at the density etc. Further there is no mention in s. 65915 of the applicant having to justify or prove anything, only to showing eligibility.

Thank you for making slight modifications to the Waiver or Reduction of Development Standard (new s. 20.31.100 G.) section, however the final sentence "Furthermore, the applicant is required to prove that the waiver or modification results in identifiable and actual cost reductions to provide for affordable housing costs" is inconsistent with State law.

Feel free to call me. Please recommend revising this sentence further, and please provide the Planning Commission with a copy of my two emails.

Thank you.

Michael R. Hooper
P. O. Box 564
Larkspur, CA 94977

(415) 298 7571 cell

mhooper@campusproperty.com

DRE License No. 01169564

Campus Property Group
www.campusproperty.com

On Jul 24, 2018, at 4:55 PM, Michael Hooper <mhooper@campusproperty.com> wrote:

Andy. Thank you for bringing to my attention the Density Bonus Ordinance Update and for your time on the phone this afternoon.

Campus Properties has been using the State Density Bonus law and local ordinances now for several years to accomplish the goal of achieving increased density in return for a greater degree of affordability. Presently we have one project under construction in Corte Madera for 16 units, one in San Rafael going through the entitlement process for 44 units, another in Novato going through Design Review for 80 units as well as the 25 unit Acacia Village project in Santa Rosa. All these projects are Density Bonus projects.

I have reviewed the draft Density Bonus Update more for consistency with State law, than for the additional bonus's proposed to be offered but if I have time to do so before the hearing I will review the latter too. Having reviewed multiple local ordinances however, I can say that the proposed Ordinance is admirable in that it largely captures both the letter of the law and its spirit too while going beyond it to encourage more housing opportunities at a lower cost.

The one issue I have is the last sentence of s. 20. 30. 100. G. Modifications and Waivers: "Furthermore, the applicant shall be required to prove that the waiver or modification necessary results in identifiable and actual cost reductions to provide for affordable units economically feasible housing costs." The words "results in identifiable and actual cost reductions to provide for affordable units economically feasible housing costs" are in fact borrowed from s. 65915 (d) Incentives and Concessions and do not appear in s. 65915 (e) Modification and Waivers. Accordingly that standard is only applicable to Incentives and Concessions, not Modifications and Waivers. The correct standard for Modifications and Waivers is "In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section." (s. 65915 (e))

In other words pursuant to the State Density Bonus law the standards for the grant of Incentive or Concession (e.g. a fee reduction, or omission of an otherwise required recreational facility) is all about cost reduction, whereas the standard for a Modification or Waiver (e.g. reduced setback, increased height) is all about the Project at the proposed density being physically precluded. These standards can't be commingled.

One other point. Pursuant to State law, the burden of proof is always on the agency, not the applicant. There is no reference in s.65915

requiring the production of a proforma or economic analysis, the only documentation required is “reasonable documentation to establish eligibility” which of course is merely evidence that the Project is providing the required level of affordability.

I hope this helps. Let me know if you have any questions. Thanks.

Michael R. Hooper
P. O. Box 564
Larkspur, CA 94977

(415) 298 7571 cell

mhooper@campusproperty.com

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Campus Property Group
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On Jul 3, 2018, at 4:39 PM, Gustavson, Andy
<AGustavson@srcity.org> wrote:

Interested Parties,

The Planning Commission public hearing notice and public review draft of the CEQA Negative Declaration for the Density Bonus Ordinance Update is attached for your review.

The public hearing on this matter will be held on Thursday, July 26, at or

Santa Rosa Office
555 Fifth Street, Suite 300 A
Santa Rosa, CA 95401
(707) 575-3661

Oct. 23, 2018

Chair Casey Edmondson and
Planning Commissioners
City of Santa Rosa
Santa Rosa City Hall
100 Santa Rosa Avenue
Santa Rosa, CA 95404
VIA EMAIL

RE: Oct. 23 - 10.3 HOUSING DENSITY BONUS ORDINANCE UPDATE and NEGATIVE DECLARATION

Dear Chair Edmondson and Planning Commissioners,

Greenbelt Alliance fully supports the city of Santa Rosa's revised Housing Density Bonus and Negative Declaration which narrows the scope of the supplemental density bonus provisions to the Downtown Station Area Specific Plan or North Santa Rosa Station Area Specific Plan. This will allow the city to provide eligible projects to increase residential density up to 100% above the existing general plan limit.

By narrowing the scope of the supplemental density bonus, the City of Santa Rosa has addressed the concerns and questions we had raised in our previous comments related to review under California Environmental Quality Act. The revised ordinance relies on the provisions and environmental review of the Downtown Specific Area Plan and the North Santa Rosa Station Area Specific Plan. These are relevant and appropriate plans that had full public review and input from Greenbelt Alliance and many other allies, neighborhoods and stakeholders.

Narrowing the scope of the supplemental housing density bonus ordinance has the additional benefits of reducing fire and flood risk by focusing increased development and populations in the urban core away from the wildland urban interface and floodplains. These benefits were reflected in the revised CEQA document.

Greenbelt Alliance urges the Planning Commission to vote "yes" on the revised Housing Density Bonus Ordinance and Negative Declaration. We look forward to championing this important housing policy at the City Council.

Sincerely yours,



Teri Shore
Greenbelt Alliance
707 575 3661, tshore@greenbelt.org

Gustavson, Andy

From: Tom Robertson <trobertsonsf@gmail.com>
Sent: Wednesday, October 24, 2018 5:52 PM
To: Teri Shore
Cc: _PLANCOM - Planning Commission; Duggan, Vicki; Weeks, Karen; Cisco, Patti; Groninga, Curt; Peterson, Julian; Kalia, Akash; Edmondson, Casey; Gustavson, Andy; Jones, Jessica; Guhin, David; _CityCouncilListPublic; City Clerk; Rachel B. Hooper; Laurel L. Impett
Subject: Re: Santa Rosa Revised Housing Density Bonus Ordinance - Support - Greenbelt Alliance

Teri:

Thanks for your and the Greenbelt Alliance's efforts. Let's hope we can use such methods to increase the housing stock in a way that creates or enhances liveable, transit-oriented communities. This is going to take time, but consider the advantages of greater density if only in terms of new levels of positive contact among neighbors. Advocates and theorists of new urbanism have singled out sprawl as reducing such contacts and the quality of our democracy.

Regards,

Tom

Tom Robertson, President
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(415) 509-3220 (c)
trobertsonsf@gmail.com

On Oct 24, 2018, at 5:29 PM, Teri Shore <tshore@greenbelt.org> wrote:

Oct. 23, 2018

Chair Casey Edmondson and
Planning Commissioners
City of Santa Rosa
Santa Rosa City Hall
100 Santa Rosa Avenue
Santa Rosa, CA 95404
VIA EMAIL

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Sincerely yours,

Teri Shore
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707 575 3661, tshore@greenbelt.org

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Teri Shore
Regional Director, North Bay

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Bay Area greenbelt lands are at risk of being lost to sprawl development. [Get the facts here.](#)

<GACommentsDensityBonusRevised10.23.18.pdf>